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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,490	04/15/2004	Bradley W. Johnson	720.898	8566
21707	7590	02/24/2006		
IAN F. BURNS & ASSOCIATES P.O. BOX 71115 RENO, NV 89570			EXAMINER BROCKETTI, JULIE K	
			ART UNIT 3713	PAPER NUMBER
DATE MAILED: 02/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/825,490

Applicant(s)

JOHNSON, BRADLEY W.

Examiner

Julie K. Brockett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 40-75 and 77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-75 and 77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 44 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites the limitation "roulette-like". It is unclear what "roulette-like" means. How much does a game have to be similar to roulette for it to be "roulette like"? Consequently, the claim is indefinite.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 40-44, 46, 48-51, 54-64, 66-70, 72, 74, 75 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., U.S. Patent No. 6,656,040 B1 in view of Astaneha, U.S. Patent No. 6,302,395 B1.** Brosnan discloses a gaming comprising a one round of a first

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game of chance having a first game outcome. The first game of chance allows the player to place a first wager at a game player position and potentially entitling the player to a first prize if a winning outcome occurs (See Brosnan col. 4 lines 25-42; Fig. 4 & 7). The first game of chance has a first game play area and includes a first wagering scheme, at least two individual card wagering positions and a first wager input (See Brosnan col. 4 lines 54-67). For example, the player may play two poker games in parallel and therefore there would be two individual card-wagering positions. A second game of chance has a second game play area and has a second game outcome. The second game of chance allows the player to place a wager and potentially entitling the player to a second prize if a winning outcome occurs. The second game of chance comprises, a second wagering scheme, a second game player area and a second wager input (See Brosnan col. 4 lines 25-67; Fig. 4; 7) [claims 40, 56, 61]. The first game outcome and the second game outcome are independent (See Brosnan col. 3 lines 45-50) [claims 41, 60, 64]. The award of the first prize is independent of the second game outcome and the award of the second prize is independent of the first game outcome (See Brosnan col. 3 lines 45-50) [claim 42]. The player may wager on either or both of the first and second games of chance (See Brosnan col. 8 lines 22-39; Fig. 7) [claim 48]. The first and second games of chance are operatively coupled to each other (See Brosnan Figs. 1 & 4) [claim 49]. The second game can have more than two outcomes (See Brosnan col. 3 lines 65-67; col. 4 lines 1-4) [claims 54, 61]. For

example in poker, one could have a pair, or a flush, etc. The second game can also be keno (See Brosnan col. 4 lines 1-4) [claim 55]. The first game play area is a card wagering layout area where at least one card is dealt to the player (See Brosnan col. 3 lines 65-67; Fig. 4) [claims 57, 62]. For example, poker can be played. The player is allowed to place a wager on the second game of chance regardless of whether the player placed a wager on the first game of chance (See Brosnan col. 4 lines 25-67; Fig. 7) [claim 66]. The player is allowed to place a wager on a first game of chance having a first chance outcome by allowing the player to place a wager on a discrete card game layout the wagering scheme may be poker (See Brosnan Fig. 4) [claims 67, 72, 75]. The player is allowed to place a wager on a first wagering scheme and the step of allowing the player to place a wager on a second game of chance having a second game of chance outcome comprises allowing the player to place a wager on a second wagering scheme. The second wagering scheme being distinct from the first wagering scheme (See Brosnan col. 4 lines 25-67; col. 8 lines 22-39; Fig. 7) [claim 70].

Brosnan lacks in disclosing a table, a live dealer position and the game of roulette. Astaneha teaches of a combination, dice, card and roulette gambling game. Players play parts of either two or all three games on the same gaming table. The table has a live dealer position and first card wagering positions for the first game of chance at the table. The games are conducted by a live dealer (See Astaneha col. 4 lines 31-48; col. 6 lines 50-67; col. 7 lines 1-2; Fig. 3)

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[claims 40, 50, 51, 56, 61]. At least one card is dealt to the player (See Astaneha col. 6 lines 50-53) [claim 62]. It would have been obvious to one of ordinary skill in the art to play the games of Brosnan at a gaming table simultaneously with a live dealer running the games. It has been well known throughout the art that casino games may be played at gaming tables with dealers. Astaneha clearly shows that more than one type of game can be played at a gaming table at one time. Therefore, by playing the plurality of games of Brosnan at a gaming a table simultaneously, players are not bored after a short time and therefore they will not retire from the game, as quickly which is desirable to the casino. Players also enjoy the personal contact with a live dealer versus an electronic machine. Furthermore, by playing multiple games at the same time, the amount of money a casino receives in wagers increases, make the combination of games playable together more profitable for the casino. Astaneha further discloses that a second game play area is a roulette betting area that is located between the dealer position and the card wagering position (See Astaneha Fig. 1) [claims 43, 51, 58]. The roulette wheel is mounted adjacent to the roulette betting area (See Astaneha Fig. 1; col. 6 lines 22-26) [claims 44, 59, 69]. The second game is roulette in which the dealer rotates the wheel (See Astaneha col. 6 lines 22-26) [claims 46, 63, 74, 76]. The player may wager on the second game of chance by allowing the player to place a wager on a discrete wheel game-betting layout (See Astaneha col. 6 lines 22-26) [claim 68]. The roulette wheel is spun and stopped (See

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Astaneha col. 6 lines 22-26) [claim 77]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have one of the secondary games of Brosnan be roulette. Roulette is a popular casino game that many players enjoy. Consequently, by including roulette as the secondary game, many more people would desire to play the game. It is further obvious to use a video display to display the roulette wheel, just as it is well known throughout the art to convert electronic games to table games it is just as obvious to convert table games to electronic games. Therefore, it is obvious to use an electronic video display for the wheel as one would in Brosnan. Some players enjoy the electronic displays while others enjoy actual wheels; therefore, by using both, one can appeal to both types of individuals.

**Claims 45, 71 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., in view of Astaneha, in further view of Huard et al., U.S. Patent No. 5,743,800.** Brosnan and Astaneha lack in specifically disclosing that the first game is blackjack. Huard teaches of a first game of blackjack that has an auxiliary game. The first wagering scheme is a blackjack-betting layout (See Huard et al. col. 2 lines 50-55; col. 5 lines 1-33) [claims 45, 71, 73]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have blackjack be the first game of chance. Blackjack is a very popular casino game and would entice numerous players to play the game as well as the secondary game.

**Claims 47 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., in view of Astaneha, in further view of Adams, U.S. Patent No. 5,911,418.** Brosnan and Astaneha lack in disclosing requiring a player to wager on both the first and second games of chance. Adams teaches of a card game with a second game of chance. In order to play the second game of chance, i.e. spin the wheel, the player must have wagered on both the first game and second game (See Adams col. 2 lines 51-67) [claims 47, 65]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to require a player to bet on both games of chance. By requiring a player to bet on both games of chance, the casino makes more money since more bets are being placed. Therefore, it is profitable to have players bet on multiple games.

**Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., in view of Astaneha, in further view of Pohanka, U.S. Patent Des. 273,310.** Brosnan and Astaneha lack in disclosing a wheel rotating about a horizontal axis or that the roulette betting area comprises a video display. Pohanka teaches of an electronic roulette game housing in which the rotatable wheel is mounted to the machine such that it may rotate about a horizontal axis and the roulette betting area comprises a video display (See Pohanka Fig. 1) [claims 52, 53]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the wheel in Astaneha rotate about a horizontal axis. By rotating the wheel



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about a horizontal axis, the wheel would be clearly visible to more players since they would not have to gather around the wheel to see the outcome. Therefore, more people would be able to see the outcome of the game. It is also obvious to use a video display for the roulette betting area. By using a video display, bets can be processed electronically so that the dealer can concentrate on other functions of the game instead of the betting and it can be assured that the bets are accurately recorded.

### ***Response to Amendment***

It has been noted that claim 76 has been cancelled. Claims 43, 44, 69, 73-75 and 77 have been amended.

### ***Response to Arguments***

Applicant's arguments filed November 16, 2005 have been fully considered but they are not persuasive.

It is noted that this action has been made final since every claim number and limitation was expressly stated in the body of the previous rejection, even though there was a typographical error in not including claims 56-63 in the first sentence of the previous rejection. The only claim number that was missing from the body of the previous rejection was claim 57, which includes the identical limitations of claim 62, which was mentioned in the body of the rejection. Therefore, Applicant was well advised as to the claims and

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limitations that the rejection encompassed even though there was a typographical error. Furthermore, the office action summary sheet clearly indicated that all claims were rejected.

Applicant argues that Brosnan is a slot machine and does not have a dealer position. The Examiner agrees. However, claim 40 is being rejected under the combination of Brosnan and Astaneha. Astaneha clearly discloses a dealer position. As stated in the rejection, Brosnan teaches of a gaming machine in which multiple types of games may be played simultaneously. For example, a player could play two poker games, a keno game and a pachinko game all at the same time. The games are conducted on a gaming machine. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take gaming machine games and play them as a table game. It has been common in the casino industry to take table games such as poker, blackjack, etc. and create gaming machines based on these games. Therefore, it is just as obvious to one of ordinary skill in the art to take gaming machine games and create table games out of them. Therefore, if one took the games of Brosnan and played them as a table game as in the reference Astaneha, one would clearly have a dealer position to deal the cards to players. It is also noted that contrary to Applicant's assertion, Brosnan does disclose two card-wagering positions. For example, a player may play two poker games simultaneously with separate control panels. Therefore, the game includes two card-wagering positions, i.e. one for each poker game.

With respect to claim 52, Applicant further argues that neither Brosnan nor Astaneha teach a roulette wheel mounted on a horizontal axis. The Examiner agrees and notes that she rejected this limitation using the reference Pohanka, which does disclose a roulette wheel, mounted on a horizontal axis.

Applicant argues that the alleged combination of Brosnan and Astaneha teaches away from the Applicant's invention. The Examiner disagrees. Brosnan teaches most of the claim limitations except for a live dealer and the game of roulette. By combining Brosnan with Astaneha, one would have the Applicant's invention, i.e. two games being played simultaneously at a table game with a live dealer. Astaneha is not being used as a reference for the games it teaches. It is being used to show that it is known to have table games involving multiple types of games at the same time with a live dealer. Therefore, the combination does not teach away from Applicant's invention. Nowhere does the Examiner assert that the combination would result in slot machine results being added to the results of a roulette game in order to generate a final game outcome. The combination that would occur is that the games played on the gaming machine of Brosnan can be played as table games with a dealer.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation

to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Applicant asserts that Brosnan does not recognize the problems, which Applicant's invention addresses or solves. The Examiner disagrees. Brosnan clearly address the problem of player boredom from playing one game by allowing players to play multiple games simultaneously. Furthermore, by increasing the number of games played, the revenue for the games increases. The Examiner notes that it is well known throughout the art to play games on both tables and gaming machines. Therefore, it is obvious to convert any table game to a machine game and machine games to table games to suit the needs of the casino and the enjoyment of the players.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Applicant asserts that it is doubtful that one skilled in the art of designing table games would be

motivated to look at slot machines in order to design new and interesting table games that are entertaining for game players. The Examiner disagrees and notes that one skilled in the gaming industry would look to all types of games to design new and interesting table games. The Examiner once again notes that it has been well known for some time to convert one type of gaming device with a certain type of game into another gaming device for playing the same type of game. For example table games have been converted to be played on gaming machines and the Internet. Therefore, it is obvious to convert games played on gaming machines into table form so that players who enjoy the table game format will be able to play the same types of games offered on the machines.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

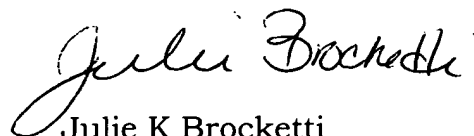
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Julie K Brockett  
Primary Examiner  
Art Unit 3713